



Federal Deposit Insurance Corporation

Washington, D.C. 20434

Office of Inspector General

DATE: June 5, 1997

TO: Jane L. Sartori
Director
Division of Administration

FROM: Stephen M. Beard
Director, Congressional Relations
and Evaluations

SUBJECT: *Extensions of Term Appointments and Conversions to Permanent Positions in the Division of Administration (EVAL-97-007)*

This report presents the results of our review of employees' term appointment extensions and conversions to permanent positions. We conducted the review in response to an inquiry received on November 7, 1996, from Senator Paul Sarbanes' office. On September 12, 1996, Senator Sarbanes' office received an anonymous letter from a group of permanent Federal Deposit Insurance Corporation (FDIC) employees alleging that "blatant personnel hiring improprieties" were occurring at FDIC.

Specifically, the employees alleged that FDIC's Division of Administration (DOA), Acquisition Services Branch (ASB): (1) extended five of its employees' term appointments beyond December 31, 1995, which in several cases exceeded the United States Office of Personnel Management (U.S. OPM) 4-year limitation; (2) converted these employees' term appointments to permanent positions by announcing positions considering status and non status candidates while concurrently preparing to conduct a Reduction-In-Force (RIF); and (3) improperly employed a student who was on a term appointment with full benefits for an excessive time frame. The allegation letter also stated the need for an independent review of all permanent positions filled by term employees, especially in situations where permanent employees also applied.

Based on the allegations, the objective of this review was to determine whether DOA complied with policies and guidelines in: (1) extending employees' term appointments; (2) converting employees' term appointments to permanent positions; and (3) promoting

employees on term appointments to permanent positions.

SUMMARY OF REVIEW

Our review showed that DOA's ASB and Personnel Services Branch (PSB) followed applicable policies and guidelines in extending the term appointments of the five employees specifically mentioned in the allegation letter. We also determined that only one of the five employees' term appointments was converted to a permanent position and that the conversion and accompanying promotion were performed and approved in accordance with prescribed policies and guidelines.

We did, however, determine that PSB improperly provided retirement coverage for the student mentioned in the allegation. U.S. OPM's Student Educational Employment Program is comprised of two components: (1) the Student Temporary Employment Program (STEP) and (2) the Student Career Experience Program (SCEP).¹ STEP does not require that students' work duties match their educational studies to participate in the program and does not offer retirement coverage. SCEP does require that students' work duties match their educational studies in order to participate in the program and offers retirement coverage. The student mentioned in the allegation was employed under the first component, STEP, but was improperly receiving retirement coverage.

Subsequent to our review, PSB informed us that the student transferred to another Federal agency on March 27, 1997. In a letter to the agency dated April 3, 1997, PSB explained the student's retirement coverage error and requested that the agency take appropriate action to correct the error to the student's personnel retirement records. Based on PSB's corrective action, no recommendation was necessary.

We also identified an issue concerning PSB's use of an open, continuous announcement to fill executive-level I (E-I) positions. The open, continuous announcement did not lend itself to communicating to potential applicants the technical requirements of the positions being announced under it. In addition, positions filled through the open, continuous announcement were not required to be announced through the typical process or time frames used to advertise other vacancy announcements. We brought these concerns to PSB's attention, and, on February 3, 1997, PSB's Assistant Director, Washington Personnel Services Section, issued a

¹U.S. OPM discontinued the Cooperative Education Program and established the Student Educational Employment Program effective December 16, 1994.

memorandum to all Division and Office Directors stating that PSB is discontinuing the open continuous vacancy announcement for E-1 positions.

With respect to our review of conversions in addition to those cited in the allegation, we found that DOA and PSB converted 11 employees' term appointments to permanent positions through the competitive process from June 1996 to October 1996. Although DOA followed applicable policies and guidelines in carrying out these personnel actions, we determined that (1) the guidance in effect at the time these actions were processed did not require justification to select FDIC term employees for permanent positions; and (2) DOA used incorrect or incomplete position descriptions (PD) to announce vacancies. Further, in our opinion, the March 11, 1996, MOU entitled, *Preferential Consideration for Reassignment Eligibles in Filling Permanent Vacancies* did not clearly explain the definition of "fully qualified," the relationship of the "well qualified" designation in the Interagency Career Transition Assistance Program (ICTAP) to the MOU's "fully qualified" designation, and the application screening process and score ranking guidelines for determining preferential reassignment eligibles.

With regard to justifying term employee selections for permanent positions, the Deputy to the Chairman and Chief Operating Officer (COO) issued a memorandum to all Division and Office Directors on February 20, 1997, entitled *Approval of Hiring and Relocation Decisions*. The memorandum stated that the selection of any FDIC term employee for a permanent position is subject to advance approval with appropriate justification. However, the memorandum did not specify what criteria should be addressed in the justification. We recommended that DOA specify in guidelines that justifications for conversions address consistency with approved core staffing levels and the availability of qualified FDIC employees in permanent positions to fill the vacancies. In addition, we recommended that DOA management periodically monitor the extent to which conversions are occurring within each division to identify any anomalies that warrant further review.

After our review was completed, PSB provided supporting documentation for two of the three PDs that we reported as being inaccurate or incomplete. DOA's written response to our draft report indicated that the remaining conversion "...was an executive level open continuous case which must contain up-to-date and accurate position descriptions inasmuch as the position description is used to determine the evaluation criteria." Further, PSB is aware of its PD deficiencies and hired a contractor to establish new, or update existing, PDs for all positions. Based on the additional documentation and information provided by PSB, and the actions PSB has already taken, we do not believe a recommendation is necessary.

The Corporation and the National Treasury Employees Union (NTEU) are committed to providing all employees with as much information as possible to facilitate a complete

understanding of the Corporation's downsizing initiatives. Accordingly, we recommended that DOA prepare and disseminate guidance to FDIC employees clearly explaining the requirements of the MOU. The guidance should clearly define "fully qualified," the relationship of the "well qualified" designation in ICTAP to the MOU's "fully qualified" designation, and the application screening process and score ranking guidelines used by PSB for determining preferential reassignment eligibles.

We identified one other issue that warranted management's attention. The Corporation offered its initial buyout program to most employees in order to downsize as rapidly as possible and minimize the need for RIFs. This process, as expected, has in a few instances resulted in some staff shortages in certain areas, while surpluses continue to exist in others. The second buyout was targeted to specific categories of employees. As a part of the second buyout, we noted that a recently converted term to permanent appointee was offered a buyout 3 months after having been made a permanent employee. Offering a buyout to an employee who had just recently been converted appeared inconsistent with the Corporation's downsizing initiatives. Accordingly, we recommended that DOA establish a minimum time period under which employees hired or converted to permanent status would be excluded from any future buyout offers.

On May 30, 1997, you provided us the Corporation's written response to a draft of this report addressing the four recommendations. DOA management agreed with the recommendations and the response and an action already taken provided the requisite elements of a management decision for each of the four recommendations. The Corporation's written response is included in its entirety as Appendix I of this report. Appendix II presents our assessment of management's responses to the recommendations and shows that we have a management decision for each of the four recommendations.

BACKGROUND

DOA consists of four branches: ASB, the Corporate Services Branch (CSB), PSB, and the Training and Consulting Services Branch (TCSB). It also includes the Management Review Staff (MRS) and Director's Office (which includes the Regional Managers' staffs for each of DOA's five Regional Service Centers). ASB, which was the focus of the allegation, is responsible for processing contract awards, contract administration, contract closeout, field systems support, and audit resolution. See Table 1 for a breakdown of DOA Headquarters staffing as of June 23, 1996.

Table 1: DOA Headquarters Staffing as of June 23, 1996

DOA BRANCH	PERMANENT STAFF	TERM STAFF	TOTAL STAFF
ASB	88	20	108
CSB	168	11	179
PSB	96	17	113
TCSB	56	2	58
MRS AND DIRECTOR'S OFFICE	13	0	13
TOTAL	421	50	471

Source: DOA's Staffing Projections Analysis: 1996-2000, which excludes employees who accepted buyouts in 1995.

According to PSB's Associate Director, FDIC converted 33 of its Headquarters employees on term appointments to permanent positions during 1996 and DOA Headquarters accounted for 12, or 36 percent of these conversions. The breakdown of DOA's Headquarters conversions is shown in Table 2.

Table 2: DOA Headquarters Conversions for 1996

DOA BRANCH	NUMBER OF CONVERSIONS
ASB	1
CSB	3
PSB	2
TCSB	5
MRS AND DIRECTOR'S OFFICE	1
TOTAL	12

Source: Information provided by the Associate Director of DOA's PSB.

U.S. OPM has established policies regarding employees' term appointments. In addition,

FDIC and the Resolution Trust Corporation (RTC) established policies and guidelines for the extension of term appointments during the FDIC/RTC transition. U.S. OPM's Title 5 CFR, Subpart C, Section 316.301 on term employment states that an agency may make a term

on August 27, 1996, a Senior Personnel Management Specialist sent an e-mail message to appropriate PSB staff stating that the COO must approve all permanent appointments, including current FDIC employees' term appointments converted to permanent.

SCOPE OF REVIEW

To accomplish our objective, we reviewed the anonymous letter. We also reviewed policies and guidelines relating to extensions and conversions of employees' term appointments such as FDIC and U.S. OPM policies and guidelines, transition and downsizing memorandums issued by RTC and FDIC management, and questions and answers found on the Transition Question and Answer Bulletin Board. Further, we reviewed the Official Personnel Folders (OPFs) and vacancy announcement case files for the five DOA employees mentioned in the allegation and 11 of the 12 DOA Headquarters employees whose term appointments were converted to permanent between June 1996 and October 1996.² We did not include 1 of the 12 DOA converted employees in our review because the employee transferred to the Atlanta office and we chose not to retrieve the employee's OPF from that office. We reviewed these 11 DOA conversions to satisfy the complainants' request for an independent review of all permanent positions filled by term employees especially where permanent employees had also applied.

We reviewed the OPFs of the DOA employees included in our sample to determine the validity of the information stated in the allegation and to determine whether the proper approvals for extending and converting these employees' appointments were documented and necessary forms were completed and retained. We reviewed the vacancy announcement case files for the term employees included in our sample who were converted to permanent positions to determine whether FDIC followed the proper policies and guidelines in announcing vacancies to non-permanent employees and selecting them for permanent positions. Further, we discussed questions and concerns with PSB officials regarding our review of OPFs and vacancy announcement case files and FDIC and U.S. OPM related policies and guidelines. Finally, we determined whether these positions were within DOA's core staffing numbers by reviewing its staffing projections for 1996 through 2000.

We conducted this review between November 13, 1996, and January 17, 1997, in accordance with the President's Council on Integrity and Efficiency's *Quality Standards for Inspections*.

RESULTS OF REVIEW

²One of the DOA employees named in the allegation was also 1 of the 12 DOA employees whose term appointment was converted between June and October 1996.

ALLEGATION OF IMPROPER TERM EXTENSIONS AND CONVERSIONS FOR FIVE DOA ASB EMPLOYEES

The complainants alleged that DOA's ASB: (1) improperly extended five of its employees' term appointments beyond their original expiration date of December 31, 1995, which in several cases exceeded the U.S. OPM 4-year statutory limitation; (2) converted these five employees' term appointments to permanent positions by opening positions considering status and non status candidates while concurrently preparing for a RIF; and (3) improperly employed a student who was on a term appointment with full benefits for an excessive time frame. With regard to the alleged term extensions and conversions, the complainants specifically stated that ASB announced permanent positions for a GG-15 Assistant Director, Headquarters Operations, and an E-I Deputy Associate Director to select two of the term employees mentioned in the allegation.

We substantiated one of the claims made in the allegation and identified an issue that warrants management's attention. PSB allowed the student mentioned in the allegation Federal Employee's Retirement System (FERS) coverage although the student was not eligible according to U.S. OPM's Title 5 CFR, Subpart B, Section 831.201. In addition, we had concerns about the use of the open, continuous announcement for filling E-I positions.

Extension of Three DOA Employees' Term Appointments Beyond December 31, 1995

DOA did extend three of the five employees' term appointments beyond December 31, 1995, as stated in the allegation, but the extensions were properly approved and did not cause the employees' term appointments to exceed the 4-year statutory limitation. RTC hired three of the employees mentioned in the allegation on term appointments that began August 22, 1993, and February 6 and March 21, 1994, with not-to-exceed (NTE) dates of December 31, 1995. According to U.S. OPM Title 5 CFR Subpart C, these term appointments could be extended up to 4 years. However, according to the August 8, 1994, joint release from the FDIC/RTC Transition Task Force and NTEU, any extensions of term appointments beyond December 31, 1995, by RTC would occur only at the request of FDIC, after consultation with the NTEU. In addition, the Transition Question and Answer Bulletin Board stated in one of its responses that time limited appointments in RTC could not be extended beyond December 31, 1995, unless requested by the FDIC based upon workload considerations.

FDIC followed these policies and guidelines to extend the three employees' term appointments beyond December 31, 1995. The Director, DOA, submitted a workload justification on September 20, 1995, to extend the three employees' term appointments through December 31, 1996, and the COO approved the extensions on September 26, 1995. None of the extensions caused the employees' term appointments to go beyond the 4-year

statutory limitation. Subsequently, ASB extended the term appointments beyond December 31, 1996; one to August 21, 1997, and the other two to December 31, 1997, which is still within the employees' 4-year statutory term limitations.

In addition, the complainants alleged that FDIC advertised a permanent position for an Assistant Director, ASB Headquarters Operations, and considered status and non status candidates so that one of the three term employees just mentioned would be selected. However, there was no evidence to substantiate this claim. We reviewed the vacancy announcement case file for this position and determined that the term employee mentioned in the allegation was not referred or selected for the position. Instead, DOA selected a permanent FDIC employee.

Further, the complainants alleged that FDIC converted these five employees' term appointments while concurrently preparing a RIF. This claim was also unsubstantiated because DOA has not been targeted for a RIF. According to the October 29, 1996, memorandum from the COO, DOA has excess supervisory and managerial personnel in some branches in Headquarters. However, the surplus is not substantial enough to require the use of a RIF.

DOA Employee Participating in FDIC's Student Temporary Employment Program

DOA properly employed the fourth individual mentioned in the allegation as a student under U.S. OPM's STEP, with the exception of allowing him FERS retirement coverage to which he was not entitled. As mentioned earlier, STEP is one component of the Student Educational Employment Program. The other component is the SCEP. These two components differ in that the nature of the duties does not have to be related to the student's academic goals in order for an individual to participate in STEP. Also, students participating in STEP are appointed to positions not-to-exceed 1 year in the excepted service under Schedule B 213.3202 (a), whereas students participating in SCEP are appointed to positions with no NTE dates in the excepted service under Schedule B 213.3202 (b). Appointments under STEP can be extended in 1-year increments as long as the individual maintains the status of a student.

FDIC properly employed this student under STEP on a schedule B 213.3202 (a) appointment because the student was pursuing a Doctor of Philosophy in Economics but working in an unrelated area, DOA's ASB. Also, because this student was employed in the excepted service under STEP, the student was not on a term appointment and the 4-year statutory limitation did not apply. As required by STEP, PSB properly extended the student's appointment in 1-year increments and could continue the extensions until the student completes his degree.

Even though FDIC was properly employing this student under STEP, FDIC allowed the student FERS coverage to which the student was not entitled. Students participating in STEP are not entitled to retirement coverage as are students participating in SCEP. According to a Standard

Form 50 and verification from a PSB Personnel Management Specialist, FDIC allowed this student FERS coverage since October 1995.

Subsequent to our review, PSB informed us that the student transferred to another Federal agency on March 27, 1997. In a letter to the agency dated April 3, 1997, PSB explained the student's retirement coverage error and requested that the agency take appropriate action to correct the error to the student's personnel retirement records. Based on PSB's corrective action, a recommendation is not necessary.

DOA Employee Extended Beyond 4-Year Term and Converted to a Permanent E-I Position

DOA extended the fifth employee's term appointment beyond the 4-year statutory limitation and subsequently converted and promoted the employee to a permanent E-I position as Deputy Associate Director, ASB. However, DOA obtained U.S. OPM's required approval to extend the employee's term appointment beyond 4 years and subsequently converted the employee to the permanent position through competition. The position was announced and filled according to applicable policies and guidelines. In addition, DOA obtained the Chairman's approval to convert and promote this individual to a permanent position.³ However, the guidance in effect during the course of our review did not require justifications for conversions and only required the COO's signature. We discuss this issue in further detail in the section of our report entitled "Justifications for Conversions" on page 14.

This employee was hired on April 5, 1992, on a term appointment with an NTE date of April 4, 1996. On December 27, 1995, U.S. OPM approved FDIC's request to extend this employee's term appointment for 1 year not to exceed April 4, 1997. The approval stated that U.S. OPM granted this variation to avoid undue hardship that a change in staff would cause for the transition of RTC residual workload to FDIC. The approval further stated that the 1-year extension would not change the time-limited nature of the individual's employment, and that this employee's knowledge of RTC's contracting policies and automated systems would enable expeditious completion of the work, thus promoting Government efficiency.

³Although this employee's conversion was not approved by the COO, we believe the Chairman's approval is appropriate because it is required to appoint individuals to executive level positions under *FDIC Delegations of Authority*.

On September 15, 1996, DOA promoted this employee to a permanent E-I position as the Deputy Associate Director, ASB, through an open, continuous announcement that considered only status candidates. This employee was eligible for the permanent position because this employee obtained status as a permanent Federal employee from October 18, 1976, to October 18, 1979, before starting at RTC. According to PSB's Assistant Director, Washington Personnel Services Section, FDIC is allowed to use the open, continuous announcement for filling E-I positions.

The conversion of this employee's position to a permanent E-I, which became effective in September 1996, was approved by the Chairman. Although ASB followed prescribed policies and guidelines in converting and promoting this employee, we had concerns with DOA using an open, continuous announcement to fill a position requiring specialized technical skills. Our observations in this area are discussed in the next section.

Open Continuous Announcement Used to Fill E-I Positions

During our review, we discussed with PSB officials our concern that the open continuous announcement may not always provide an equitable way of advertising positions or qualifying applicants and could cause selecting officials to sacrifice quality for expediency. According to DOA officials, FDIC has been using the open, continuous announcement since 1984 to quickly fill executive management positions. The Corporation opened Announcement No. 96-X-010 on March 22, 1996, with a "To Be Determined" closing date for E-I positions with a nationwide area of consideration and slated for status candidates only. This announcement was preceded by a February 9, 1996, global e-mail message stating that competition for continuing executive positions which are currently filled by employees whose permanent grades are 15 or below, will occur through the open, continuous announcements for the E-I level.

We believe that the open, continuous announcement did not always provide an equitable way of advertising positions or qualifying applicants because it differed from the vacancy postings for other FDIC positions in several ways. The open, continuous announcement had no specified closing date while most FDIC position vacancies are posted for a minimum of 15 to 21 days, depending upon the area of consideration. The open, continuous announcement contained no selective placement factors or quality ranking factors. Selective placement factors are specified skills, knowledge, or abilities above and beyond the basic requirements which an applicant must meet in order to be considered minimally qualified by PSB for the position. Quality ranking factors are significant job-related elements that help determine which applicants are highly qualified to perform in the position. PSB did not require FDIC divisions to advertise positions opened under the open, continuous announcement on FDIC's job tackboard, which is the typical process used to advertise all other position vacancies.

PSB's Assistant Director, Washington Personnel Services Section, stated that E-I managers are considered first line supervisors responsible for the day-to-day activities within each office and therefore need to display technical as well as managerial skills in their application packages. Based on this official's rationale, we believed that the positions advertised under the open, continuous announcement should have included selective placement and quality ranking factors to help ensure that the most qualified candidates, displaying the best technical and managerial skills, were selected for these positions. PSB's Assistant Director, Washington Personnel Services Section, agreed with our viewpoint.

We reviewed PSB's vacancy announcement case files for four DOA E-I positions filled through Announcement No. 96-X-010.⁴ DOA announced these four positions by title only through a message on the tackboard which was publicized for 7 days. The message did not mention any qualifications, selective placement factors, or quality ranking factors to be considered for any of the four positions. From a list of 55 status employees identified by PSB as eligible for E-I positions in Washington, D.C., a PSB Personnel Specialist evaluated the application packages using the PDs as the only measure and determined that for each of the four positions, no more than 7 of the 55 employees were qualified. It was unclear to us how this evaluation could be fairly accomplished in situations where the PD, which was not made available to the applicants, was the only measure used to determine whether the applicants were qualified for the positions.

We brought these concerns to the attention of PSB's Assistant Director, Washington Personnel Services Section, during the course of our review. On February 3, 1997, the Assistant Director issued a memorandum to all Division and Office Directors regarding the open, continuous vacancy announcement. The memorandum stated that PSB plans to discontinue the use of the open, continuous vacancy announcement for E-I positions because it did not reflect the specific skills and abilities needed for the positions and that the E-I positions will be advertised individually as PSB does for all other E level positions. The memorandum also stated that individual vacancy announcements give candidates the opportunity to highlight their experience in relation to the position being filled.

REVIEW OF ADDITIONAL DOA CONVERSIONS TO PERMANENT POSITIONS

The complainants stated that there is a need for an independent review of all permanent positions filled by employees on term appointments, especially for those positions where permanent employees also applied. In response to the complainants' request, we reviewed the

⁴One of the four positions under the open, continuous announcement was included in our review because it was specifically mentioned in the allegation. However, we reviewed the other three positions to determine whether they provided additional evidence to support our concern.

conversions of 11 Headquarters DOA employees on term appointments to determine whether they were processed according to applicable policies and guidelines.⁵ We determined that FDIC followed applicable policies and guidelines in converting the 11 DOA term appointments to permanent positions. However, we identified several issues that warranted management's attention because they could make FDIC vulnerable to grievances and increased scrutiny in light of the downsizing environment in which FDIC is operating.

First, the guidance in effect at the time the conversions we reviewed took place did not require justifications and only required the COO's signature. In addition, for 3 of the 11 conversions that we reviewed, we identified incorrect or incomplete PDs in the vacancy announcement case files. PDs are the basis for announcing positions because they are used to establish the knowledge and skills needed to perform the responsibilities of the advertised positions. Also, according to FDIC's Circular 2100.4, entitled *Corporate Reduction In Force Policy*, employees' official positions of record are used in establishing competitive levels for RIF purposes. Further, in our opinion, the March 11, 1996, MOU entitled, *Preferential Consideration for Reassignment Eligibles in Filling Permanent Vacancies* did not clearly explain the definition of "fully qualified," the relationship of the "well qualified" designation in ICTAP to the MOU's "fully qualified" designation, and the application screening process and score ranking guidelines for determining preferential reassignment eligibles. Finally, we noted an instance wherein FDIC management offered a permanent DOA employee a buyout 3 months after converting the employee to a permanent appointment, which appears inconsistent with the Corporation's downsizing initiatives.

The Process Used to Convert DOA Term Appointments to Permanent Positions

We determined that FDIC followed applicable policies and guidelines in converting the 11 DOA employees' term appointments to permanent positions. The conversions occurred between June 1996 and October 1996. On August 27, 1996, a Senior Personnel Management Specialist sent an e-mail message to appropriate PSB staff stating that the COO must approve all permanent appointments, including current FDIC employees' appointments converted to permanent. The Associate Director, MRS, informed us that prior to the August 27, 1996 e-mail message, FDIC had no requirement for the approval of conversions except that conversions had to be consistent with approved core staffing levels. Based on this guidance, DOA obtained approval for 2 of the 11 conversions we reviewed because they were the only conversions that occurred after this message was sent. These two conversions

⁵One of the 11 converted DOA employees was also one of the five DOA employees specifically mentioned in the allegation.

occurred on September 15 and October 13, 1996.⁶

DOA converted the 11 employees' appointments through the competitive process and in accordance with Circular 2110.2, entitled *Merit Promotion Plan*. According to a response on the Transition Question and Answer Bulletin Board, employees' term appointments should be converted to permanent only through the competitive process by applying for positions that are announced for status and non status applicants. Further, according to PSB's Assistant Director, Washington Personnel Services Section, and Assistant Director, Policy and Programs Section, management of the hiring office has the authority to determine what sources to consider in posting announcements. Consistent with that authority, DOA management considered status and non status candidates for 10 of the 11 positions which made term employees eligible to apply. DOA considered status only candidates for the E-I position discussed in the previous section of this report and a term employee who obtained status from previous government experience was selected for the position.

Moreover, FDIC complied with its *Merit Promotion Plan* in advertising the positions and qualifying candidates. The positions were posted for the required amounts of time and paneled, when necessary. The *Plan* requires FDIC management to announce positions for a minimum of 15 days when the area of consideration is limited to specific regions or service centers. Otherwise, the positions should be posted for a minimum of 21 days. All of the positions included in our sample were open for the required time frames.

When necessary, DOA paneled applicants for the 11 positions according to the *Merit Promotion Plan*. The *Plan* states that a panel must be used when there are 10 or more qualified promotion candidates. We identified instances where there were 10 or more qualified candidates and PSB did not panel. However, in such cases, PSB referred all qualified candidates. The eleventh position, which was the E-I position referred to earlier in our report, was not paneled. This position did not require a panel because it was posted under the open continuous announcement which only requires a panel when more than nine candidates are referred. Only seven candidates were referred for this position.

Justifications for Conversions

Although DOA obtained approvals for 2 of the 11 conversions as required, the guidance in effect at the time these actions were processed did not require justifications and only required the signature of the COO. On February 20, 1997, the COO issued a memorandum to Division and Office Directors entitled *Approval of Hiring and Relocation Decisions*. The

⁶The COO's approval, although not required, was obtained for a third conversion that occurred in June 1996.

memorandum stated that requests for approval of conversions of term appointments to permanent should be submitted with appropriate justification. However, the memorandum did not specify the criteria to be addressed for an appropriate justification.

On May 21, 1996, the COO issued a memorandum to all Division and Office Directors entitled *Approval of Relocations and Outside Hires*. This memorandum requires justifications for outside hires to address consistency with approved core staffing levels and the availability of qualified FDIC applicants. We believe that converting employees from term to permanent appointments has the same effect on permanent staffing levels as hiring individuals from outside the Corporation for permanent positions. Therefore, requests for approval to select a non-permanent employee over a permanent employee for a permanent position should be held to the same justification criteria. We recommended that DOA specify in guidelines that requests for conversions should include justifications that address consistency with approved

Reassignment Eligibles

In our opinion, the March 11, 1996, MOU between FDIC and the NTEU did not clearly explain the term “fully qualified,” the relationship of the “well qualified” designation in ICTAP to the MOU’s “fully qualified” designation, and the application screening process and score ranking guidelines used by PSB for determining preferential reassignment eligibles. These ambiguities make FDIC vulnerable to complaints and grievances by applicants who believe that they should have been considered preferential reassignment eligibles. The ambiguities also gave FDIC managers the opportunity to select non-permanent FDIC candidates without obtaining the COO’s approval in the vacancy announcements we reviewed. The MOU states that it was created to minimize the need for a RIF by requiring the advance approval of the COO when a non-permanent individual is selected for a permanent position over one or more reassignment eligibles that have been referred to the selecting official.

The MOU states that “fully qualified” applicants who currently hold permanent FDIC appointments and are applying for assignment at either their permanent or lower grade levels will be placed on a separate Reassignment Eligibles Roster. The MOU further states that in order to be a preferential reassignment eligible, candidates must be “fully qualified” *and* “able to perform all the requirements of the job immediately upon assuming its duties.” PSB officials informed us that they believe the MOU clearly explains that the definition of “fully qualified” is synonymous with the clause “able to perform all the requirements of the job immediately upon assuming its duties.” Contrary to PSB’s assessment, we believe the MOU’s requirements to be “fully qualified” and “able to perform all the requirements of the job immediately upon assuming its duties” are related, but not entirely the same. Also, the Director, PSB, stated that she communicated this definition to Division and Office Directors. However, the Director indicated that she cannot be certain that selecting officials are aware of it.

In addition, PSB officials informed us that the term “fully qualified” has the same meaning as the “well qualified” standard used for ICTAP eligibility of displaced workers from other Federal agencies and that this relationship is clearly explained in the MOU. ICTAP provides two separate definitions of “well qualified” candidates from which agencies must choose. First, ICTAP defines “well qualified” candidates as meeting all selective factors, where applicable, and the appropriate quality ranking factor levels as determined by the agency; and being able to satisfactorily perform the duties of the position upon entry. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing the displaced employees. The second definition describes “well qualified” candidates as rated by the agency to be above minimally qualified candidates in accordance with the agency’s specific selection process.

PSB's Senior Personnel Management Specialist explained the application screening process and score ranking guidelines used by FDIC to determine a "fully qualified" or "well qualified" reassignment eligible in his July 23, 1996, e-mail message to three PSB officials. These guidelines state that "if the average of all panel members scores for any one factor is equal to the lowest benchmark for that factor, the reassignment eligible is NOT a priority candidate (i.e., is not 'well qualified'). If, however, the average of all panel members scores for any one factor is above the lowest benchmark for the factor, the reassignment eligible IS a priority candidate (i.e., is 'well qualified')." We are not expressing an opinion on the consistency of PSB's application screening process and score ranking guidelines with either of the "well qualified" ICTAP definitions. We do, however, believe that the MOU does not clearly explain (1) the definition of "fully qualified," (2) the relationship of "fully qualified" to the "well qualified" ICTAP standard and (3) the application screening process and score ranking guidelines used by PSB officials to determine preferential reassignment eligibles.

During our review, we determined that three of the vacancy announcements under which the term appointments in our sample were converted included four applicants who appeared to be preferential reassignment eligibles based on the requirements currently stated in the MOU. These applicants held permanent FDIC positions at the grade levels of the positions for which they were applying as required by the MOU and were deemed qualified by the panelists and referred.⁷ However, these candidates were not referred on the preferential reassignment eligibles roster because they received an average score equal to the lowest benchmark for at least one of the quality ranking factors.

Instead of being referred on the preferential reassignment eligibles roster, PSB referred these candidates on a noncompetitive roster. In our opinion, applicants such as these would have reason to believe that their opportunity of being selected was diminished or they were not properly referred to the selecting officials because:

- Candidates placed on the noncompetitive roster could appear less appealing to selecting officials because PSB's transmittal of the various rosters to the selecting officials describes a noncompetitive referral as a reassignment eligible who meets the basic qualification requirements and selective placement factors, but does not meet the Quality Ranking Factors above the minimum level. However, PSB does not disclose to the Selecting Official that a higher standard is used to determine a candidate's eligibility as a preferential reassignment eligible compared to determining candidates eligible for a merit promotion. For example, it is possible for a candidate to receive a low score by one of the panelists for one of the quality ranking factors and still be

⁷We did not include in this analysis the vacancy announcement for the E-I position described earlier in our report because the MOU applies to GG positions only and not E level positions.

referred on the merit promotion roster. This type of score automatically disqualifies a reassignment eligible for the preferential roster.

To illustrate, for one of the job announcements we reviewed, we found that a reassignment eligible was referred on the noncompetitive roster while 10 other permanent applicants with lower scores were referred on the merit promotion roster. DOA selected and promoted 1 of the 10 applicants. DOA also converted an employee with a term appointment to a permanent position for this multiple-vacancy announcement.

- Candidates placed on the noncompetitive roster are supposed to be referred automatically without being paneled. However, PSB already paneled these candidates to determine whether they met the definition of fully qualified reassignment eligibles.

Given the language in the MOU, we believe it would be reasonable for candidates such as these to believe they should be referred on the preferential reassignment eligibles roster. If the MOU or subsequent guidance were to more clearly explain the specific requirements for being considered a preferential reassignment eligible, FDIC could better protect itself from complaints and grievances from such applicants who believe they should be considered preferential reassignment eligibles.

Further, the Corporation and NTEU have stated in joint communications to employees that they are committed to providing all employees with as much information as possible to facilitate a complete understanding of its downsizing initiatives. Accordingly, we recommended that DOA prepare and disseminate guidance to FDIC employees, clearly explaining the requirements of the MOU. The guidance should clearly define “fully qualified,” the relationship of the “well qualified” designation in ICTAP to the MOU’s “fully qualified” designation, and the application screening process and score ranking guidelines used by PSB for determining preferential reassignment eligibles.

DOA Buyouts and Conversions

We recognize that a large scale buyout program could lead to temporary staffing imbalances. For example, a buyout acceptance rate in a particular area could lead to some staffing shortages which might require targeted hiring, while other areas may remain overstaffed. Seventy-one permanent DOA Headquarters employees accepted the first buyout offered by FDIC in November 1995, with separation dates ranging between November 1995 and June 1996. Then, FDIC offered an additional 101 DOA Headquarters employees a second buyout

during November 1996.⁸ Between these two buyouts, from January through October 1996, DOA opened 12 permanent Headquarters positions to employees on both permanent and term appointments. DOA selected and converted employees on term appointments to fill all 12 of these positions.

We found that a recently converted employee was offered a buyout. More specifically, a DOA employee whose term appointment was converted during August 1996 to a permanent GG-13, Realty Specialist position, was offered a buyout during November 1996, only 3 months later.

Offering a buyout to a recently converted employee appears inconsistent with the Corporation's downsizing initiatives. Accordingly, we recommend that DOA establish a minimum time period under which employees hired or converted to permanent status would be excluded from future buyout offers.

⁸Subsequent to our review, we learned that 12 of the 101 DOA Headquarters employees accepted the buyout offer.

CONCLUSIONS AND RECOMMENDATIONS

ASB and PSB followed applicable policies and procedures in extending the term appointments of the five employees specifically mentioned in the allegation. We also determined that only one of the five employees' term appointments was converted to a permanent position and that the conversion was performed in accordance with prescribed policies and guidelines. Further, we determined that ASB and PSB followed applicable policies and guidelines in converting the 11 additional DOA term appointments that we reviewed.

However, we did identify several issues that warranted management's attention. Accordingly, we recommended that the Director, DOA:

- (1) Prepare and disseminate guidance to FDIC employees that clearly explains the definition of the term "fully qualified," the relationship of the "well qualified" designation in ICTAP to the MOU's "fully qualified" designation, and the application screening process and score ranking guidelines used by PSB for determining preferential reassignment eligibles.
- (2) Specify in guidelines that requests for conversions should include justifications that address consistency with approved core staffing levels and the availability of qualified permanent FDIC employees to fill the vacancies.
- (3) Periodically monitor the extent to which conversions are occurring within each division to identify any anomalies that warrant further review.
- (4) Establish a minimum time period under which employees hired or converted to permanent status would be excluded from any future buyout offers.

CORPORATION RESPONSE AND OIG EVALUATION

On May 30, 1997, the Director, DOA provided the Corporation's written response to a draft of this report. The response is presented as Appendix I to this report. DOA management agreed with our recommendations and the response and an action already taken provided the requisites for a management decision for all four recommendations.

Prepare and disseminate guidance to FDIC employees that clearly explains the requirements of the March 1996 MOU regarding PSB's process for determining preferential reassignment eligibles. DOA management generally agreed with our recommendation. DOA agreed to post on the Corporate Issues Bulletin Board an explanation of the application

screening process ranking guidelines used by PSB for determining preferential reassignment eligibles. DOA management also stated that they are planning in the near future to implement FDIC's Career Transition Assistance Plan (CTAP) and intend to propose to NTEU that the CTAP formally supersede the March 1996 MOU on preferential consideration for reassignment eligibles. The OIG is currently preparing formal comments on FDIC Draft Directive 2800.5 *FDIC Career Transition Assistance Plan (CTAP)*. One of the OIG's comments is that the directive should include an explanation of the screening and score ranking guidelines used by the Corporation to determine that an employee is well qualified and eligible for special selection priority under CTAP for a vacant position. DOA management's response adequately addressed the recommendation and provided all the requisites of a management decision.

In our draft report, we stated that candidates placed on a noncompetitive roster could appear less qualified to selecting officials because the roster identifies these applicants as exceptions to the *Merit Promotion Plan*. In its response to our draft report, DOA disagreed with our observation because DOA management believes that managers and supervisors understand that an employee who is a reassignment eligible and not required to compete through the *Merit Promotion Plan* is not more or less qualified for a position. DOA management further stated that noncompetitive referral of applicants is a standard practice in federal personnel offices and, as such, is expected by hiring officials. Based on DOA's response, we deleted our statement from the final report.

Specify in guidelines that requests for conversions should include justifications that address consistency with approved core staffing levels and the availability of qualified permanent FDIC employees to fill the vacancies. DOA management agreed with our recommendation. On May 23, 1997, the Chief Operating Officer issued a memorandum to all FDIC Division and Office Directors requiring that requests for approval of the selection of any non-permanent employee or outside candidate for a permanent position be accompanied by a justification that specifically addresses: (1) the availability of qualified permanent FDIC applicants for the position, and (2) the consistency of the proposed selection with approved core staffing levels of the requesting division or office. DOA management's response and the Chief Operating Officer's action adequately addressed the recommendation and provided all the requisites of a management decision.

Periodically monitor the extent to which conversions are occurring within each division to identify any anomalies that warrant further review. DOA management agreed with our recommendation. DOA management will periodically monitor the extent to which conversions are occurring within each division and office to identify any anomalies that warrant further attention. DOA management's response adequately addressed the recommendation and provided the applicable requisites of a management decision.

Establish a minimum time period under which employees hired or converted to permanent status would be excluded from any future buyout offers. DOA management agreed with our recommendation. If FDIC conducts another buyout, DOA management will establish a minimum time period under which employees who are hired or converted to a permanent status would not be offered a buyout. DOA management's response adequately addressed the recommendation and provided the applicable requisites of a management decision.

APPENDIX I

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MANAGEMENT RESPONSES TO RECOMMENDATIONS

This table presents management responses that have been made on recommendations in our report and the status of management decisions. The information for management decisions is based on management's written response to our report and subsequent discussions with management representatives.

Rec. Number	Corrective Action: Taken or Planned/Status	Expected Completion Date	Documentation That Will Confirm Final Action	Monetary Benefits	Management Decision: Yes or No
1	DOA will post on the Corporate Issues Bulletin Board an explanation of the application screening process ranking guidelines used by PSB for determining preferential reassignment eligibles.	6/30/97	Posting on the Corporate Issues Bulletin Board.	No	Yes
2	On May 23, 1997, the Chief Operating Officer issued a memorandum to all Division and Office Directors that requires requests for conversions or outside hires include justifications that address consistency with approved core staffing levels and the availability of qualified permanent FDIC employees to fill the vacancies.	5/23/97	5/23/97 Memorandum from the Chief Operating Officer to Division/Office Directors Re Conversions of Employees from Term to Permanent Appointments.	No	Yes
3	DOA will periodically monitor the extent to which conversions are occurring within each division and office to identify any anomalies that warrant further attention.	Ongoing	DOA Reports of Periodic Monitoring	No	Yes
4	If FDIC conducts another buyout, DOA will establish a minimum time period under which employees who are hired or converted to a permanent status would be excluded from a buyout offer.	N/A	N/A	No	Yes

